THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 7th July,2006

W.P.No.10637 of 1997

Between :

J. Adinarayana … Petitioner

and

The District Collector (Cooperation),
Srikakulam & others … Respondents

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W.P.No.10637 of 1997

ORAL ORDER:

In spite of notice being served in the main Writ Petition as well as in the WPMPs, none appears for the respondents.

It is the case of the petitioner that the respondent-Bank sanctioned an amount of Rs.1,01,000/- for establishment of a poultry unit, to him in the year 1992, which is repayable with interest at 15% per annum. The respondent-Bank released first instalment of Rs.43,000/- on 19-11-1992, but after making deductions only an amount of Rs.14,736/- was received by him. In fact, the respondents have collected an amount of Rs.1250/- towards insurance premium and remitted the same to the Oriental Insurance Company Limited, Srikakulam on 23-11-1992. Thereafter, the 2nd respondent released the second instalment of Rs.28,313/- on 25-2-1993, but they have paid only Rs.17,650/-. Again on 2-3-1994, the respondents released the third instalment of Rs.29,680/-, but they have paid only Rs.15,000/- to him. To that effect, the respondents have passed receipts. In the month of April,1993, 150 birds died and again in May,1993, 200 birds died due to Gambora disease. Further, due to heavy rains, the poultry sheds were collapsed on 19-7-1995. The petitioner brought every thing to the notice of the respondents.

Be that as it may, without considering all those things, the 3rd respondent has suddenly issued the impugned notice. According to

the petitioner, before issuing the said notice, neither he was put on notice nor any other adjudication has taken place nor he was given any opportunity to represent his case. Since, there is no counter affidavit filed and no representation is made on behalf of the respondents, it must be deemed that the impugned Order is passed without any notice to the petitioner and without giving opportunity of being heard. In the circumstances, the impugned Order (Demand notice-cum-Distraint Order) is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned Order is set aside. However, this will not preclude the authorities from taking appropriate action, after issuing necessary notice as required under law and hearing the petitioner, if necessary. No costs.

07-7-2006

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